



May 17, 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint received on August 16, 2015, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA" or "the Act"), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by Workers United, Local 50, in Anaheim, California, on May 15, 2015.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department concluded, with respect to each of your allegations, that there was no violation that may have affected the outcome of the election.

You alleged that the Union improperly ruled two members, [REDACTED] and [REDACTED], ineligible to run as candidates for office. Section 401(e) of the LMRDA, 29 U.S.C. § 481 (e), provides that every member in good standing shall be eligible to be a candidate and to hold office subject to "reasonable qualifications uniformly imposed." Under Article V, Section 3(c) of the Local 50 bylaws, in order for any member to be eligible to be nominated for any elected office, the member must be present at the nominating meeting or, prior to the opening of nominations, must have submitted a written statement indicating his or her willingness to accept the nomination if his or her name were to be proposed. The investigation disclosed that [REDACTED] was nominated for office, but did not attend the nomination meeting or submit a written statement per the Local's rules. The investigation also disclosed that [REDACTED] was not nominated for a position and did not attend the nomination meeting, nor did she submit a written statement accepting a nomination. Pursuant to the Union's bylaws, neither [REDACTED] nor [REDACTED] satisfied the requirements to be nominated for an elected position. There was no violation.

You alleged that Local 50 improperly allowed member [REDACTED] to run for office. As stated above, Section 401(e) of the LMRDA provides that every member in good standing shall be eligible to be a candidate and to hold office subject to "reasonable

qualifications uniformly imposed." Ordinarily, a local union's requirement that a candidate be a member of the union for a period of time, not exceeding two years, will be considered reasonable. *See* 29 C.F.R. § 452.37. Furthermore, Article V, Sections 3(a) and (b) of the Local's bylaws state that in order to be eligible to be nominated for any elected office, a member must have been an active member in continuous good standing for a period of 24 calendar months immediately preceding nominations and be employed or available for employment in the jurisdiction of the Local, or is an officer or employee of the Local or Workers United. The investigation disclosed that candidate [REDACTED] entered into an agreement with Disneyland in December of 2014 that permitted him to work full-time for the Local and still be entitled to return to his former position with no loss of seniority. A dues record provided by the Local also revealed that [REDACTED] began paying dues in March of 2010 and was an active member in continuous good standing for a period of 24 calendar months immediately preceding nominations. Thus, [REDACTED] was eligible to run for office. There was no violation.

You alleged that the Union failed to provide proper notice of nominations in that the notice did not contain the required information regarding the proper method of making and accepting nominations, and that several members did not receive notices in the mail. Section 401(e) of the LMRDA requires that a reasonable opportunity be given for nominating candidates in a secret ballot election. The Department has interpreted this provision to require a union to give timely notice reasonably calculated to inform all members of the offices to be filled in the election, as well as the time, place, and form for submitting nominations. Article V, Section 4 of the Local's bylaws specifies that the notice of nominations and election be mailed to all members in good standing not less than 15 days prior to nominations. The investigation did not substantiate your allegation. The investigation disclosed that a combined nomination and election notice was mailed to members on March 19, 2015, which was 20 days before the nominations meeting. The mailed notice stated that nominations would be held at Local 50's hall on April 8, 2015. The notice further stated the positions to be nominated and the requirement that candidates "accept nomination at the nomination meeting or, if not attending, must submit a written statement to the Trustee prior to the opening of nominations indicating his or her willingness to accept the nomination...."

Furthermore, you alleged that several members, including yourself, [REDACTED], [REDACTED] and [REDACTED], did not receive nomination notices in the mail. Upon investigation, the Department found that the Local hired Mailing Pros Inc. to mail a total of 6,128 combined nomination and election notices to the membership via presorted first class mail. The mailing list used by Mailing Pros Inc. was obtained from Disneyland, and is updated on a monthly basis. There were a total of three notices that were not mailed due to complications with the member's mailing address, and a total of 85 notices that were returned undeliverable. However, the Department's investigation

revealed that of the 88 notices that were not delivered, none of the non-deliveries affected any of the named members. The Department received confirmation from most of the named members that the addresses used by Mailing Pros Inc. were in fact accurate and current mailing addresses.¹ In any event, given that the smallest margin of victory in any of the races in this election was 89 votes, the 88 non-deliveries would not have affected the outcome of the election. No violation occurred.

You alleged that Union funds were used to promote the candidacy of "A-S.M.A.R.T. Slate." Section 401(g) of the LMRDA, 29 U.S.C. 481(g), provides, in relevant part, that no moneys received by any union shall be contributed to promote the candidacy of any individual. *See also* 29 C.F.R. § 452.73. The investigation disclosed that members of the A-S.M.A.R.T. Slate opened a bank account to finance their campaign. Money was collected from the members of the slate and deposited into the same account. Moreover, receipts were produced to the Department to establish that the A-S.M.A.R.T. Slate candidates used their own funds to pay for campaign expenses. There was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA affecting the outcome of the election, and I have closed the file in this matter.

Sincerely,

Sharon Hanley, Chief
Division of Enforcement

cc: Mary Kay Henry, President
Service Employees International Union
1800 Massachusetts Avenue, NW
Washington, DC 20036

¹ Members [REDACTED] and [REDACTED] confirmed that the address used by Mailing Pros was in fact their accurate and current mailing address. The three members who did not confirm their mailing address to the Department—members [REDACTED], and [REDACTED]—were repeatedly contacted by the Department for an interview, but these attempts were unsuccessful.

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